

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ALEXANDER ORENSHTEYN,

Plaintiff,

v.

INTERNATIONAL BUSINESS
MACHINES, Corp.

Defendant

Civil Action No.
1:02-cv-5074
(JFK-RLE)

**MOTION TO LIFT STAY
AND ADMINISTRATIVELY REOPEN**

The above captioned matter was stayed by joint stipulation of the parties (filed on June 13, 2003, entered as docket item #21), pending resolution of Appeal 2003-1427/2008-1378/2008-1400 at the United States Court of Appeal for the Federal Circuit (CAFC). The appeal was from a matter in the United States District Court for the Southern District of Florida, Civil Action 02-cv-60478. The patent at issue in the above captioned matter has been asserted against a third party (Citrix) in the action in The Southern District of Florida.

Pending resolution of the appeal, the above captioned matter was Administratively closed on August 31, 2005.

On October 2, 2009, the United States Court of Appeals for the Federal Circuit issued a mandate in which the decision of the Southern District of Florida was affirmed in part, vacated in part and remanded to the District Court for the Southern District of Florida. The action in the Southern District of Florida has resumed on remand.

Due to the nature of the decision from the Court of Appeals for the Federal Circuit, reversing a finding of non-infringement, the stay of the above captioned matter should be lifted and the matter reopened. Plaintiff respectfully request the Court to re-open the above captioned matter and to set a status conference at the earliest practical date.

Plaintiff's counsel has conferred with counsel for Defendant IBM and Defendant's counsel has stated that Defendant does not oppose this Motion to Reopen.

March 4, 2011

Respectfully Submitted:

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